

Attorney Docket No.: **ISPH-0524**
Inventors: **Bennett et al.**
Serial No.: **09/734,847**
Filing Date: **December 12, 2000**
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REMARKS

Claims 1-33 are pending in this application. The Examiner has made a restriction requirement under 35 U.S.C. §121 as follows: Group I claims 1-13 and 17-33, drawn to a method of controlling the behavior of a cell through modulation of the processing of a selected wild-type mRNA target comprising modulation of splicing of said mRNA target, classified in class 435, subclass 375.

Group II, claims 1,6 and 14-30, drawn to a method of controlling the behavior of a target cell through modulation of the processing of a selected wild type mRNA target comprising targeting the antisense compound to a sequence which controls the stability of said mRNA target, classified in class 435, subclass 375.

The Examiner suggests that the inventions of Groups I and II are patentably distinct since they are drawn to distinct methods comprising different method steps. The Examiner acknowledges that each method has the same objective, namely controlling the behavior of a cell through the modulation of the processing of a selected wild-type mRNA target. The Examiner suggests that since the methods comprise the use of distinct antisense compounds targeted to different sequences within an mRNA target the groups I and II are patentably distinct methods.

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Applicants respectfully traverse this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

As acknowledged by the Examiner, all of the claims relate to controlling the behavior of a cell through the modulation of the processing of a selected wild-type mRNA target. Thus, Applicant respectfully disagrees that the Groups set forth by the Examiner are distinct as being novel and unobvious over each other, as required by MPEP § 802.01. Accordingly, reconsideration and withdrawal of this Restriction requirement is respectfully requested.

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However, in an earnest effort to be completely responsive, Applicants hereby elect to prosecute Group I claims 1-13 and 17-33, with traverse. Applicants believe that this response satisfies the requirements of the instant Restriction Requirement.

Respectfully submitted,

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